

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 21913 of 2005****For Approval and Signature:****HONOURABLE MR.JUSTICE M.R. SHAH**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - Whether this case involves a substantial question of law as to the interpretation of the
 - 4 constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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TAPSING NAVALSING VASAVA & 2 - Petitioner(s)
Versus
SPL. SECRETARY (APPEALS) & 5 - Respondent(s)

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Appearance :

MR PN BAVISHI for Petitioner(s) : 1 - 3.
None for Respondent(s) : 1 - 6.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH**Date : 27/10/2005****ORAL JUDGMENT**

1. In this petition under Articles 226 and 227 of the Constitution of India, the petitioners have challenged the legality and validity of the judgment and order passed by the Principal Secretary

(Appeals), Revenue Department, State of Gujarat dated 6.8.2005 passed in Revision Application No.14 of 2000 in dismissing the same and confirming the order passed by the Collector, Narmada / Rajpipla dated 28.9.2000 passed in RTS Revision Application No.14 of 2000 by which the Collector, Narmada / Rajpipla had confirmed the order passed by the Deputy Collector, Rajpipala dated 10.7.2000 passed in RTS Appeal No.37 of 1999.

2. The petitioners as well as the respondent Nos.4 to 6 claimed to be the heirs and legal representatives of the deceased Navalsing Vasava. The dispute is with regard to the revenue entry in the revenue record with respect to the land bearing Revenue Survey No.34 paiki situated at village Selamba and the land bearing survey No.42 situated at village Gotpada. The aforesaid lands in question were in the name of the father of the petitioners as well as the respondent Nos.4 to 6 Navasinh Santaliya and vide Entry No.607 dated 22.1.1995 with respect to the land situated at Selamba and vide Entry No.237 dated

22.1.95 with respect to the land situated at village Gotpada on the basis of the some partition, the names of the petitioners were entered into in the revenue record. Being aggrieved by and dissatisfied with the aforesaid two entries, the respondent Nos.4 to 6 preferred appeal before the Deputy Collector, Rajpipala being RTS Appeal No.37 of 1999 and the Deputy Collector, Rajpipala vide its order dated 10.7.2000 allowed the said appeal directing to mutate the names of the respondent Nos.4 to 6 herein and one Ajabsinh Navalsingh in the revenue record along with the petitioners as heir of Navalsing Vasava. Being aggrieved and dissatisfied with the order passed by the Deputy Collector, Rajpipala dated 10.7.2000 passed in RTS Appeal No.37 of 1999, the petitioners preferred the Revision Application before the Collector, Narmada / Rajpipala being RTS Revision Application No.14 of 2000 and the Collector, Narmada vide its order dated 28.9.2000 dismissed the said revision application confirming the order passed by the Deputy Collector, Narmada / Rajpipala dated 10.7.2000. Being aggrieved and dissatisfied with the

order passed by the Collector, Narmada dated 28.9.2000 passed in RTS Revision Application No.14 of 2000, the petitioners preferred the revision application before the State Government i.e. The Principal Secretary (Appeals), Revenue Department, State of Gujarat being Revision Application No.14 of 2000 and the Principal Secretary (Appeals), State of Gujarat vide its judgment and order dated 6.8.2005 dismissed the said revision application confirming the orders passed by the Collector, Narmada / Rajpipala as well as the Deputy Collector, Rajpipala. Being aggrieved and dissatisfied with the judgment and order passed by the Principal Secretary (Appeals), Revenue Department dated 6.8.2005 passed in Revision Application No.14 of 2000, the petitioners have preferred the present special civil application under Articles 226 and 227 of the Constitution of India.

3. Shri Mahendra Vyas, learned advocate appearing on behalf of the petitioners has vehemently submitted that all three authorities below have materially

erred in directing to mutate the names of the respondents Nos.4 to 6 herein and one Ajabsingh Navalsinh as the heirs of the deceased Navalsingh Sataliya as during his life time, the aforesaid lands were partitioned and since then, the aforesaid lands are in possession of the petitioners. It appears from the record that the respondent Nos.4 to 6 opposed the aforesaid entries No.607 as well as the Entry No.234 on the ground that there was no partition at all during the life time of said Navalsingh Sataliya as alleged and that they are the heirs and legal representatives of the deceased Navalsinh Sataliya and they are also having their rights as heirs of deceased Navalsing.

4. It is required to be noted that the dispute is with regard to the mutation entry in the revenue record and as held by the Hon'ble Supreme Court and this Court in catena of judgments, mutation entry in the revenue record does not confer any right, title or interest merely on the basis of the names of the revenue record and that the entry in the revenue

record is only for fiscal purpose and prima facie showing possession and person liable to pay the revenue to the State Government. However, if there is any dispute between the parties with regard to the title, the parties are required to be relegated to the Civil Court for establishing their rights and the revenue authority has no jurisdiction to decide the dispute with regard to title and in the present case, on the basis of partition, the petitioners as well as the respondent No.3 to 6 claim to be the heirs of Navalsing Sataliya and it is the contention on behalf of the petitioners that there was already partition during the life time of the deceased Navalsing Sataliya. However, fact remains that all the three authorities below have directed to enter and / or mutate the names of the respondent nos.4 to 6 herein and one Ajabsing Navalsing as the heirs of the deceased Navalsing Sataliya along with the names of the petitioners. If the petitioners claim that there was already partition and the respondents Nos.4 to 6 are trying to dispossess them, then it is for the petitioners to file civil suit and approach the civil

court. On the other hand, if the respondent Nos.4 to 6 claim that there was no partition at all and they have got the share in the property of Navalsing Sataliaya, then it is ultimately for the respondent Nos.4 to 6 to approach the civil court for establishing their rights in the land belonging to the said Navalsing Sataliaya and necessary entry can be mutated on the basis of the judgment and decree that may be passed by the Civil Court. As stated hereinabove, merely on the basis of the entry in the revenue record, no title vests and mutation entry in the revenue record does not confer any right, title or interest.

5. With the aforesaid observations and directions, the present special civil application is disposed of accordingly.

[M.R.Shah, J.]

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